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**RECEIVED**

**JUN 20 2008**

**PUBLIC SERVICE  
COMMISSION**

William L. Wilson, Jr.  
Mark R. Hutchinson  
T. Steven Poteat

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[randy@whplawfirm.com](mailto:randy@whplawfirm.com)  
[steve@whplawfirm.com](mailto:steve@whplawfirm.com)

June 17, 2008

Honorable Stephanie Stumbo  
Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd.  
PO Box 615  
Frankfort, Kentucky 40602

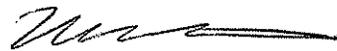
*CASE NO: 2008-00230*

RE: Application of Atmos Energy Corporation for an Order  
Approving the Accounting Treatment of Costs and  
Expenses incurred in connection with Environmental  
Remedial Actions

Dear Ms. Stumbo:

I enclose herewith an original, plus eleven (11) copies, of an Application of Atmos Energy Corporation for an order approving the accounting treatment of costs and expenses incurred in connection with environmental remedial actions associated with a manufactured gas plant site in Owensboro, Kentucky.

Very truly yours,



Mark R. Hutchinson

c: Dennis Howard

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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JUN 20 2008

**PUBLIC SERVICE  
COMMISSION**

IN THE MATTER OF:

APPLICATION OF ATMOS ENERGY CORPORATION )  
FOR AN ORDER APPROVING THE ACCOUNTING )  
TREATMENT OF COSTS AND EXPENSES INCURRED )  
IN CONNECTION WITH ENVIRONMENTAL )  
REMEDIAL ACTIONS ASSOCIATED )  
WITH A MANUFACTURED GAS PLANT SITE IN )  
OWENSBORO, KENTUCKY )

Case No. 00230  
2008-

**APPLICATION**

Atmos Energy Corporation ("Atmos") or ("Applicant") by counsel, hereby applies to the Kentucky Public Service Commission ("Commission") for an Order authorizing it to defer in Account 186 all costs and expenses incurred to date, and all future costs and expenses to be incurred, for environmental remedial actions taken, and to be taken, in connection with Atmos' former manufactured gas plant in Owensboro, Kentucky.

In support of this Application, Atmos states as follows:

1. Atmos is a corporation duly qualified under the laws of the Commonwealth of Kentucky to carry on its business in the Commonwealth.
2. Atmos is an operating public utility engaged in the business of supplying natural gas to the public in numerous cities, towns, and communities in Western and South Central Kentucky.
3. A certified copy of Applicant's Amended and Restated Articles of Incorporation is already on file with the Commission in the Matter of: The Application of Atmos Energy Corporation for An Order Authorizing a \$900,000,000 Universal Shelf Registration, Case No. 2006-00387.
4. This Application is filed pursuant to KRS 278.220 which authorizes the Commission to prescribe the accounting to be used by any public utilities subject to its jurisdiction.

5. Beginning in 1889, Owensboro Gas Light Company (later Owensboro Gas Company) owned and operated a coal gasification plant at the corner of Third and Elm Streets in Owensboro, Kentucky (the "Site"). The Site consists of a fenced .8 acre vacant lot and the adjacent property that was once the former Goodloe Elementary School. In 1945, Owensboro Gas Company merged with Western Kentucky Gas Company. In 1950 Western Kentucky Gas Company sold the Site property to the Owensboro Board of Education. The Site is now owned by the Fourth Street Baptist Church ("Church"). Atmos is the successor to Western Kentucky Gas Company.

6. State and federal authorities determined that remedial action was needed to eliminate the threat of benzo(a) pyrene contamination in the soil that had been caused by the former coal gasification plant at the Site. Following extensive negotiations between Atmos, as a Potentially Responsible Party, the U.S. Environmental Protection Agency ("EPA") and the Church, as owner of the Site, the parties reached a settlement agreement. The Agreement was memorialized in the EPA's Enforcement Action Memorandum (EAM) of January 9, 2008. Pursuant to the EAM, the EPA entered the Administrative Settlement Agreement and Order on Consent Action ("Agreement") for the Site on January 28, 2008. The Agreement requires that all areas containing concentration of benzo(a) pyrene above the removal action level, would be capped by Atmos with all removed soils to be disposed of in accordance with US EPA's Off-Site Rule. Further pursuant to the Agreement, ownership of the Site was transferred by the Church to Atmos so that the remedial actions could proceed and proper deed restrictions could be put in place. As part of the Agreement, Atmos agreed to lease the Site back to the Church (subject to Atmos' right to use the Site for purposes of complying with the EPA required action) and to make certain other improvements to the Site.

7. Atmos has incurred, to date, various costs and expenses in connection with the investigation of environmental contamination at the Site and in connection with complying with the EAM and the Agreement, including costs for the Site purchase, payments to the EPA for Past Response Costs, clean up expenses to date, soil analysis expenses, legal and consulting fees, etc. The costs and expenses

incurred to date which Atmos seeks authority to defer to Account 186 total \$298,556.16. These are itemized on the attached Exhibit "A".

8. Additional costs and expenses will be incurred in the future by Atmos in completing the work required by the EAM and the Agreement, possible future response costs of the EPA, and future monitoring/ reporting costs. Any refunds or reimbursements received from any state funds, insurance companies, or other third parties will be credited to Account 186.

10. Atmos is not requesting approval of any ratemaking treatment of these costs and expenses at this time. The review and appropriate disposition of these costs and expenses will be reserved for and determined in Atmos' next general rate case or in a subsequent special proceeding seeking recovery of these costs and expenses.

11. Atmos believes that the accounting treatment being requested herein is appropriate since the costs of investigation, assessment and environmental response actions at the Site are extraordinary and non-recurring costs and Atmos may not otherwise have the opportunity to recover these extraordinary expenses without the issuance of the order requested herein.

12. Correspondence and communications with respect to this Application should be directed to:

Mark A. Martin  
Atmos Energy Corporation  
2401 New Hartford Road  
Owensboro, Kentucky 42303

Douglas C. Walther  
Atmos Energy Corporation  
PO Box 650205  
Dallas, Texas 75265

Mark R. Hutchinson  
611 Frederica Street  
Owensboro, Kentucky 42301

WHEREFORE, for the reasons stated herein Atmos respectfully requests the Commission to issue an order authorizing it to defer in Account 186 all costs and expenses incurred to date and all future costs and expenses to be incurred, in connection with remedial actions taken at the Site.

Respectfully submitted this 16 day of June, 2008.

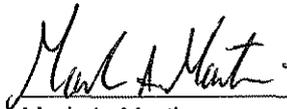


Mark R. Hutchinson  
611 Frederica Street  
Owensboro, Kentucky 42301

Douglas Walther  
ATMOS ENERGY CORPORATION  
PO Box 650250  
Dallas, Texas 75265

**VERIFICATION**

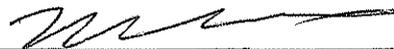
I, Mark A. Martin, being duly sworn under oath state that I am Vice President of Marketing and Regulatory Affairs for Atmos Energy Corporation, Kentucky/Midstates Division, and that the statements contained in the foregoing Petition are true as I verily believe.



Mark A. Martin

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16 day of June, 2008 the original of this Application, together with eleven (11) copies of the Application, were filed with the Kentucky Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40206.



Mark R. Hutchinson

Atmos Energy Corporation  
Owensboro, Kentucky MGP Site  
Itemized Expenditures (through May 31, 2008)

<u>Date</u>	<u>Expenditure Type</u>	<u>Vendor Name</u>	<u>Amount</u>
07/27/2007	CONTRACTOR - SERVICES	MUNSCH HARDT KOPF AND HARR PC	\$ 6,703.75
09/14/2007	CONTRACTOR - SERVICES	BRYANT ENGINEERING INC	1,702.50
08/31/2007	CONTRACTOR - SERVICES	MUNSCH HARDT KOPF AND HARR PC	1,031.40
12/04/2007	CONTRACTOR - SERVICES	BRYANT ENGINEERING INC	1,465.00
01/03/2008	CONTRACTOR - SERVICES	BRYANT ENGINEERING INC	2,440.00
03/14/2008	LAND	REGIONAL LAND TITLE COMPANY	101,822.00
08/07/2007	CONTRACTOR - SERVICES	BRYANT ENGINEERING INC	2,307.50
03/19/2008	CONTRACTOR - SERVICES	MESSENGER INQUIRER INC	71.02
03/27/2008	CONTRACTOR - SERVICES	BRYANT ENGINEERING INC	634.50
12/06/2007	CONSULTING	LINEBACH FUNKHOUSER INC	382.50
03/17/2008	CONSULTING	LINEBACH FUNKHOUSER INC	3,107.06
03/27/2008	CONSULTING	LINEBACH FUNKHOUSER INC	5,410.00
10/31/2007	CONSULTING	LINEBACH FUNKHOUSER INC	10,959.28
05/02/2008	CONTRACTOR - SERVICES	BRYANT ENGINEERING INC	1,102.00
03/07/2008	MISCELLANEOUS	ENVIRONMENTAL PROTECTION AGENCY	159,417.65
<b>Total</b>			<b>\$ 298,556.16</b>

EXHIBIT "A"